

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ROBERT J. HARRINGTON, et al.,)	
)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No
)	04-12558-NMG
)	
DELTA AIRLINES, INC., et al.,)	
)	
Defendants.)	
_____)	

DEUTSCHE LUFTHANSA A.G.'S MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT

Defendant Deutsche Lufthansa, A.G. ("Lufthansa"), by its attorneys, hereby moves to dismiss plaintiffs' claims against Lufthansa set forth in plaintiffs' amended complaint, jury claim, and request for class certification (the "complaint") pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

As grounds for its motion, Lufthansa states that plaintiffs' claims against Lufthansa should be dismissed because (1) plaintiffs lack standing to raise such claims against Lufthansa and, therefore, this Court lacks subject-matter jurisdiction over those claims; (2) plaintiffs' claims are expressly preempted and barred by federal law; and (3) plaintiffs have failed to state a claim as to each count alleged in the complaint.

WHEREFORE, Lufthansa respectfully requests that plaintiffs' claims against Lufthansa be dismissed pursuant to Fed R. Civ. P. 12(b)(1) or 12(b)(6), and for such other and further relief

as this Court deems just and proper.

Respectfully submitted,

Wilmer Cutler Pickering Hale and Dorr LLP
Attorneys for Deutsche Lufthansa, A.G.

Dated: July 29, 2005

By: /s/ Daniel M. Esrick
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LOCAL RULE 7.1(A)(2) CERTIFICATION

I certify that counsel for Lufthansa attempted in good faith to resolve the issues presented in this Motion with counsel for the plaintiffs but were unable to do so.

/s/ Daniel M. Esrick
Daniel M. Esrick
July 29, 2005

[PROPOSED] ORDER

Defendant Deutsche Lufthansa A.G.'s Motion to Dismiss Plaintiffs' Amended Complaint is GRANTED.

The Honorable Nathaniel M. Gorton
United States District Court Judge

Dated: _____, 2005

CERTIFICATE OF SERVICE

I, Daniel M. Esrick, hereby certify that a copy of the foregoing document has been served by electronic mail or facsimile on this 29th day of July 2005, upon counsel of record for all parties.

/s/

Daniel M. Esrick

July 29, 2005